

RESOLUTION AGREEMENT
Maine Department of Education
OCR Investigation No. 01255902

The Maine Department of Education (“MDOE”) has entered into this Resolution Agreement (the “Agreement”) with the U.S. Department of Education’s Office for Civil Rights (“OCR”) to resolve the findings of noncompliance with Title IX in the above-referenced investigation. MDOE assures that it will take the following actions.

Action Item 1

- (A) MDOE will issue a Priority Notice to all recipients of Federal financial assistance from the U.S. Department of Education that operate interscholastic athletic programs in Maine (herein, “Recipients”) requiring them to comply with Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681 *et seq.* (“Title IX”) and reminding Recipients that non-compliance places the Recipient’s federal funding in jeopardy. Herein, any athletic opportunity, event, competition, category, program, or activity (whether interscholastic, intercollegiate, club or intramural) designated for girls or women is referred to as “Girls’ Team(s)/Category(s).”

The Priority Notice shall:

- a. Specify that Title IX compliance means a school must not – on the basis of **sex** – exclude **female** students from participation in, deny female students the benefits of, or subject female students to discrimination under, any education program or activity including but not limited to athletics programs or activities.
- b. Specify that Title IX forbids schools from allowing **boys** or **men** to participate in any athletic program designated for **girls** or **women**, ensuring that only female students are eligible to join, participate, or be categorized or counted as a member of Girls’ Team(s)/Category(s) and that all **male** students are ineligible to join, participate, or be categorized or counted as a member of Girls’ Team(s)/Category(s).
- c. Require that any Recipient under MDOE’s jurisdiction wishing to redesignate an athletic program from being for girls or women, to being coed (open to students of both sexes), must obtain prior approval from MDOE to ensure Title IX compliance.
- d. Specify that schools must provide intimate facilities such as locker rooms and bathrooms accessible to its student athletes strictly separated on the basis of sex and comparably provided to each sex.
- e. Advise Recipients that any interpretation of the Maine Human Rights Act and/or [Joint Rule issued by MDOE and the Maine HRC](#), conflicting with the new Priority Notice, are preempted by Title IX.
- f. Remind Recipients that a Recipient may not delegate its obligation to comply with Title IX to an external association or other entity and may not contract with, or arrange with any third party entity to provide benefits of a Recipient’s education programs or activities, if that third party entity discriminates on the basis of sex – including by not operating athletic activities in the single-sex manner described in the Priority Notice.

The Priority Notice will further state that the words **sex, female, male, girls, women, boys, men** as used in the Priority Notice and as applicable in all practices, policies, and procedures adopted and implemented by Recipients pursuant to or consistent with Title IX, mean the following:

Sex is a person's immutable biological classification as either male or female. The word "gender" shall mean a synonym for sex but "sex" is preferred for clarity over "gender."

Female is a person of the sex characterized by a reproductive system with the biological function of producing eggs (ova).

Male is a person of the sex characterized by a reproductive system with the biological function of producing sperm.

Woman is an adult human female.

Girl is a minor human female.

Man is an adult human male.

Boy is a minor human male.

The Priority Notice will further state that the above meanings of words are to be understood in the context of the facts that *there are only two sexes (female and male) because there are only two types of gametes (eggs and sperm); and the sex of a human – female or male – is determined genetically at conception (fertilization), observable before birth, and unchangeable.*

The foregoing meanings of words, and facts regarding sex in humans, also apply throughout this Agreement.

MDOE will promptly notify the Maine Principals' Association (MPA) of the Priority Notice and provide a copy to MPA.

MDOE will post this Priority Notice in a prominent location on its website.

- (B) MDOE will rescind or revise any guidance documents or previously issued Priority Notices including, but not limited to, its January 21, 2025 [Priority Notice: Guidance for SAUs Pertaining to New Federal Executive Order](#), which advised School Administrative Units (i.e., Recipients) to permit male athletes to participate in Girls' Team(s)/Category(s), to reflect that pursuant to Title IX SAUs/Recipients must ensure that only female athletes are eligible to participate in Girls' Team(s)/Category(s) and that to the extent State law conflicts with Title IX, federal law preempts State law.

MDOE will review its website for any statements, links, or documents that are inconsistent with Title IX on the points iterated in this Agreement (namely, eligibility to participate in Girls' Team(s)/Category(s), and provision of intimate facilities for girls and women) including, but not limited to its LGBTQ+ Resources page(s), and remove or revise any such statements, links, or documents to reflect compliance with the Title IX requirements iterated in this Agreement. MDOE will promptly notify all Recipients, and MPA, of all rescissions or revisions conducted pursuant to this Action Item 1(C).

- (C) MDOE will require each Recipient to submit to MDOE an annual certification that the Recipient has complied with Title IX in the manner described in the Priority Notice.

Reporting Requirements for Action Item 1

1. By [DATE], MDOE will provide OCR with its proposed Priority Notice. Within [___DAYS] after OCR approves the Priority Notice, MDOE will provide OCR with documentation reflecting (i) that the Priority Notice was sent to Recipients and posted on MDOE's website as described in Action Item 1(A) (including a link to the location where the Priority Notice is posted); and (ii) that notice and copy thereof was sent to MPA as described in Action Item 1(B).
2. By [DATE], MDOE will submit to OCR evidence of (i) its rescission or revision of all prior guidance documents and/or Priority Notices, and (ii) revisions to its websites in compliance with Action Item 1(C), including information or documentation showing how such rescissions or revisions were communicated to Recipients and to MPA.
3. By [DATE], MDOE will submit to OCR documentation evidencing receipt by MDOE of the first annual certifications from Recipients applying to the remainder of the 2024-2025 school year, pursuant to Action Item 1(D) (or describing MDOE's efforts to follow up, remind, and facilitate completion by, any Recipients who by [DATE] have not provided MDOE with such certification).

Action Item 2

- (A) MDOE will require all Recipients to:
- (i) Review all *individual* athletic records, titles, honors, awards or similar recognition for school-level, conference, regional or state-level competitions (herein, "Recognitions") received by male athletes participating in Girls' Team(s)/Category(s) at any time up to and including the reporting date indicated below; and review all *team* Recognitions for school-level, conference, regional, or state-level competitions in which any male athlete participated in Girls' Team(s)/Category(s).
 - (ii) Restore to individual female athletes all *individual* Recognitions such girls or women earned and would have been given but for the Recognitions being given to boys or men who participated in Girls' Team(s)/Category(s), regardless of whether the female athlete remains currently, or is no longer, a student enrolled in any Recipient education program or activity.
 - (iii) Submit to OCR a list of all the reviews and restoration/correction actions described in Action Item 2(A)(i)-(ii) to MDOE. As to each female athlete to whom an individual Recognition is restored by a Recipient, MDOE will send a letter to the girl or woman expressing apology on behalf of the State of Maine for allowing her educational experience and participation in school sports to be marred by sex discrimination.

- (B) MDOE will request in writing that MPA take parallel actions to those described in Action Item 2(A) with respect to MPA’s own files and records and request that MPA notify MDOE of all restoration/correction actions taken by MPA.

Reporting Requirements for Action Item 2

1. By [DATE], MDOE will provide OCR a copy of the documents requiring Recipients to undertake the reviews and restoration/correction actions described in Action Item 2(A) and the document to MPA requesting that MPA take the actions referred to in Action Item 2(B).
2. By [DATE], MDOE will submit to OCR a list of all reviews conducted (including the underlying findings regarding male athletes participating in Girls’ Teams and Categories) and restorations/corrections to Recognitions pursuant to Action Item 2(A). MDOE will include in this submission to OCR a description of MDOE’s efforts to secure the reviews and restorations/corrections from any Recipients who by [DATE] have not provided MDOE with that information.
3. Promptly after receipt, if any, MDOE will submit to OCR any responses, documents, or information provided to MDOE by MPA relating to Action Item 2(B).

Action Item 3

MDOE will propose to OCR a plan to ensure that Recipients are complying with Title IX and enforcing Recipient assurances that only female athletes are eligible and participating on Girls’ Team(s)/Category(s) (herein, the “Monitoring Plan”). MDOE’s Monitoring Plan will:

- (A) Require all Recipients to annually certify to MDOE that (i) male athletes are not eligible to join or participate in Girls’ Team(s)/Category(s) and that in fact no male athletes have actually participated in Girls’ Team(s)/Category(s) within the Recipient’s athletic programs and activities and (ii) that the Recipient’s policy to that effect is posted prominently on the Recipient’s website.
- (B) Describe a Girls’ Team(s)/Category(s) eligibility procedure (herein, the “Eligibility Procedure”) that MDOE will implement for all Recipients (or that MDOE will require all Recipients to implement) on or before the start of the 2025-2026 school year to verify that each individual athlete allowed to participate in Girls’ Team(s)/Category(s) is not male (e.g., review of long-standing school records). MDOE will promptly notify MPA of the Eligibility Procedure.
- (C) Describe a complaint process by which MDOE (itself, or by delegation to a third party approved by OCR) will resolve complaints by athletes, parents, coaches or other school personnel, Recipients, or other persons directly impacted by the Eligibility Procedure, alleging that the Eligibility Procedure itself, or the particular eligibility determination as to an individual athlete, actually resulted in a male athlete being deemed eligible to participate in Girls’ Team(s)/Category(s) or that the Eligibility Procedure or particular eligibility determination actually resulted in a female athlete being deemed ineligible to participate in Girls’ Teams and Categories. MDOE will promptly notify MPA of the complaint process described in this paragraph.

At any time prior to OCR's closure of this case following MDOE's satisfaction of all commitments made under this Agreement, should MDOE wish to amend the Eligibility Procedure in a manner intended to reduce factually incorrect eligibility determinations, MDOE shall propose the amendments to OCR and receive OCR approval prior to implementing such amendments; provided, however, that if OCR does not grant approval or disapproval of the proposed amendment within 30 days after MDOE's submission of the proposed amendments, MDOE may implement the amendments and notify OCR that it has done so.

Reporting Requirements for Action Item 3

1. By [DATE], MDOE will provide OCR with a Monitoring Plan as required by Action Item 3, for review and approval.
2. Within [___ DAYS] after the Monitoring Plan is approved by OCR, MDOE will provide OCR with proof that (i) the first annual certification has been made by all Recipients as to the remainder of the 2024-2025 school year (or describe in detail MDOE's efforts to secure such certification from any Recipient that has not so certified); (ii) the Girls' Team(s)/Category(s) Eligibility Procedure described in Action Item 3(B) has been implemented across all Recipients effective on or before the start of the 2025-2026 school year; (iii) the complaint process described in Action Item 3(C) has been implemented concurrently with implementation of the Eligibility Procedure; and (iv) MDOE has notified MPA of the Eligibility Procedure and complaint process.
3. On a biannual basis during the monitoring of this Agreement, which monitoring period will cover the remainder of the 2024-2025 school year, the 2025-2026 school year, and the 2026-2027 school year, MDOE will submit a report to OCR outlining its compliance with its Monitoring Plan, including information submitted to MDOE by the Recipients.

Notwithstanding an agreed-upon regular schedule for MDOE's biannual reports under this Paragraph 3, if MDOE receives from any source credible information alleging that a male athlete has actually participated in any Girls' Team(s)/Category(s) within any Recipient's education program or activity after the date of execution of this Agreement, MDOE shall promptly and without delay (i) investigate the allegation to objectively reach a factual determination whether a male athlete participated in a Girls' Team(s)/Category(s) and (ii) concurrently, report the credible allegation to OCR and regularly update OCR on the status and completion of MDOE's investigation and determination into the allegation.

Other Provisions

MDOE understands that by signing the Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of the Agreement. Further, MDOE understands that during the monitoring of the Agreement, if necessary, OCR may visit MDOE, interview staff, and request such additional reports or data as are necessary for OCR to determine whether MDOE has fulfilled the terms and obligations of the Agreement. Upon OCR's acknowledgment of MDOE's satisfaction of the commitments made under the Agreement, OCR will close the case.

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MDOE understands and acknowledges that OCR may initiate proceedings to enforce the specific terms and obligations of the Agreement and/or the applicable statute(s) and regulation(s). Before initiating such proceedings, OCR will give MDOE written notice of the alleged breach and reasonable opportunity to cure the alleged breach.

The Agreement will become effective immediately upon the signature of MDOE's authorized official below.

By: _____

Date: _____

Printed Name:

Title:

Maine Department of Education

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